



**MCI Telecommunications
Corporation**

1801 Pennsylvania Avenue, NW
Washington, DC 20006
202 887 2048

Leonard S. Sawicki
Director
FCC Affairs

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December 6, 1995

DEC 6 1995

Mr. William F. Caton
Secretary
Federal Communications Commission
Room 222
1919 M Street NW
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

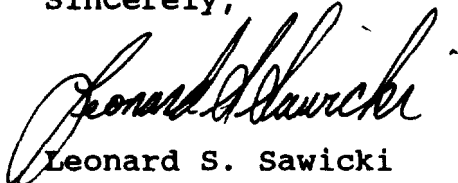
Re: IB Docket No. 95-168 and OPP Docket No. 93-253:
Auction Rules For DBS

Dear Mr. Caton:

Today, Dr. Lawrence Ausubel of the University of Maryland, Larry Blosser and I met with Diane Conley of the Wireless Bureau and Evan Kwerel, Greg Rosston, Jonathan Levy and Bill Sharkey of the Office of Plans and Policy. The purpose of the meeting was to review MCI's position in this proceeding, in particular, Dr. Ausubel's paper submitted with MCI's comments of November 20, 1995. Dr. Ausubel explained his recommendations and emphasized the need for meaningful withdrawal penalties in the DBS auction.

The attached pages were used during the meeting. They expand the bid withdrawal section of the original paper.

Sincerely,



Leonard S. Sawicki

Attachment

cc: Ms. Conley
Mr. Kwerel
Mr. Levy
Mr. Rosston
Mr. Sharkey



Proposed Auction Rules (revised 12/5/95):

Lawrence M. Ausubel (for MCI)

1. A one-minute timer and a five-minute timer are placed in clear view at the front of the auction room. The timers may be analog or digital, but they must be clearly visible to all bidders.
2. A board for displaying the dollar amount of the current (high) bid and the identity of the bidder is also placed in clear view at the front of the auction room. A manual blackboard or whiteboard, or a digital display, will suffice.
3. Whenever a new bid is announced, the bid and the identity of the bidder are recorded on the board. The one-minute timer is activated and, during this one-minute period, the bidder is free to indicate that the bid was placed in error, and to withdraw the bid without penalty. When the one-minute timer has cycled, the "no penalty" bid withdrawal period ends. Any withdrawal of a bid after the end of the associated "no penalty" bid withdrawal period will be subject to the standard FCC withdrawal penalty (which is interpreted for the DBS auctions in Rule 6, below).
4. At the conclusion of each one-minute "no penalty" bid withdrawal period, the five-minute timer is activated, signifying the start of the bid submission period. At any time during the five-minute bid submission period, any bidder is free to announce a new bid. When a new bid is announced, the above process is immediately repeated, without waiting for the five-minute timer to cycle. If no new bid is announced during the five-minute bid submission period, the auction concludes and the winner is announced.
5. The FCC prespecifies the entire sequence of bids which will be permitted in the auction. For the 110° and 148° licenses, the following sequence should be considered: "Integer multiples of \$5 million, up to \$200 million; followed by integer multiples of \$10 million, up to \$400 million; followed by integer multiples of \$20 million." The auctioneer shall not accept jump bids: for example, if the current high bid is \$220 million, the only acceptable new bid will be \$230 million. The FCC and the auctioneer also shall not retain any discretion in changing the minimum bid increment during the course of the auction.
6. Any withdrawal of or default on a bid outside of the one-minute "no penalty" withdrawal period (immediately following the bid's entry) will disqualify the withdrawing/defaulting party from all subsequent bidding on the same license. In

addition, the withdrawing/defaulting party will be subject to the same penalty which the FCC has imposed in the narrowband and broadband auctions:

“(1) Bid withdrawal prior to close of auction. A bidder who withdraws a high bid during the course of an auction will be subject to a penalty equal to the difference between the amount bid and the amount of the winning bid the next time the license is offered by the Commission. No withdrawal penalty would be assessed if the subsequent winning bid exceeds the withdrawn bid. This penalty amount will be deducted from any upfront payments or down payments that the withdrawing bidder has deposited with the Commission.

(2) Default or disqualification after close of auction. If a high bidder defaults or is disqualified after the close of such an auction, the defaulting bidder will be subject to the penalty in [paragraph (1)] plus an additional penalty equal to three (3) percent of the subsequent winning bid. If the subsequent winning bid exceeds the defaulting bidder’s bid amount, the 3 percent penalty will be calculated based on the defaulting bidder’s bid amount. These amounts will be deducted from any upfront payments or down payments that the defaulting or disqualified bidder has deposited with the Commission.” (47 C.F.R. § 24.704(a)(1)–(2).)

[Added in revision:] A bid shall only be considered “legally binding” after it has been entered and after the one-minute “no penalty” withdrawal period expires without it being withdrawn. A bid ceases to be considered “legally binding” as soon as it is superceded by a new “legally binding” bid. Thus, a bidder will not be held to its (losing) bids on a license when another bidder withdraws a subsequent “legally binding” bid or when another bidder subsequently defaults.

7. If a withdrawal or default occurs outside of the one-minute “no penalty” withdrawal period (immediately following the bid’s entry), but prior to the close of the auction, the FCC retains authority to re-auction the same license on the same day. If a withdrawal or default occurs after the close of the auction, the FCC retains authority to re-auction the same license on the soonest feasible date.
8. ***[Deleted in revision; previously allowed for running the timers simultaneously.]***
9. To prevent a bidder from strategically delaying the close of the auction, the FCC retains the discretion to limit the number of times that a bidder may re-bid on a license and then withdraw the bid during the “no penalty” withdrawal period.
10. The FCC also retains discretion in granting requests for short interruptions of the auction (e.g., bathroom breaks), as well as for longer interruptions of the auction in case of clear medical emergencies.